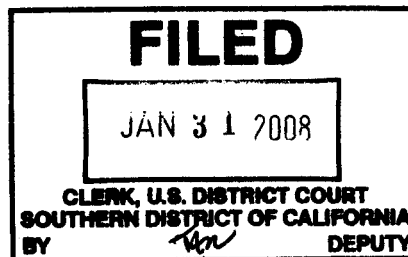


KAREN P. HEWITT
 United States Attorney
 W. MARK CONOVER
 Assistant United States Attorney
 California State Bar No. 236090
 United States Attorney's Office
 Federal Office Building
 880 Front Street, Room 6293
 San Diego, California 92101
 Telephone: (619) 557-5200

Attorneys for Plaintiff
 UNITED STATES OF AMERICA



UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

08cr 0269-J45

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDUARDO RUIZ-DIAZ (1),

Defendant.

Magistrate Case No. 08MJ8024

**STIPULATION OF FACT AND JOINT
 MOTION FOR RELEASE OF
 MATERIAL WITNESS(ES) AND
 ORDER THEREON**

(Pre-Indictment Fast-Track Program)

IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and W. Mark Conover, Assistant United States Attorney, and defendant EDUARDO RUIZ-DIAZ, by and through and with the advice and consent of defense counsel, Anthony Colombo, that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii) and (v)(II).

//

WMC:jam:1/23/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **February 15, 2008**.

6 4. The material witnesses, Jesus Duran-Duran, Rigoberto Rodriguez-Cruz, and Ruben
7 Rodriguez-Rodriguez, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;

9 b. Entered or attempted to enter the United States illegally on or about
10 January 14, 2008;

11 c. Were found in a vehicle driven by defendant or near the side of the road
12 waiting to be picked up by defendant and that defendant knew or acted in reckless disregard of the
13 fact that they were aliens with no lawful right to enter or remain in the United States;

14 d. Were paying \$2,000-\$3,000 to defendant to be brought into the United States
15 illegally and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,
21 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

22 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
23 substantive evidence;

24 b. The United States may elicit hearsay testimony from arresting agents
25 regarding any statements made by the material witness(es) provided in discovery, and such testimony
26 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest
27 of (an) unavailable witness(es); and,

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Eduardo Ruiz-Diaz (1)

1 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
2 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted
3 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant
4 waives the right to confront and cross-examine the material witness(es) in this case.

5 6. By signing this stipulation and joint motion, defendant certifies that defendant has
6 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
7 further that defendant has discussed the terms of this stipulation and joint motion with defense
8 counsel and fully understands its meaning and effect.

9 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
10 immediate release and remand of the above-named material witness(es) to the Department of
11 Homeland Security for return to their country of origin.

12 It is STIPULATED AND AGREED this date.

13 Respectfully submitted,

14 KAREN P. HEWITT
15 United States Attorney

16 Dated: 1/31/08

17 W. Mark Conover
18 W. MARK CONOVER
19 Assistant United States Attorney

20 Dated: 1/31/08

21 Anthony Colombo
22 ANTHONY COLOMBO
23 Defense Counsel for Eduardo Ruiz-Diaz

24 Dated: 1/31/08

25 Eduardo Ruiz-Diaz
26 EDUARDO RUIZ-DIAZ
27 Defendant

28 Stipulation of Fact and Joint Motion for Release of
Material Witness(es) And Order Thereon in
United States v. Eduardo Ruiz-Diaz (1)

ORDER

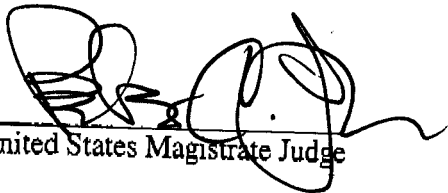
Upon joint application and motion of the parties, and for good cause shown,

THE STIPULATION is admitted into evidence, and,

IT IS ORDERED that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

SO ORDERED.

Dated: 1-31-08


United States Magistrate Judge